

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Norman Keith Flowers,

Petitioner,

V.

Calvin Johnson,

Respondents.

Case No.: 2:16-cv-01304-APG-GWF

Order Granting Unopposed Motion for Stay and Abeyance

[ECF No. 33]

Petitioner has filed an unopposed motion for stay and abeyance.¹ The court finds good cause to stay the action again.

Previously, the court stayed this action while petitioner pursued a motion to withdraw his guilty plea in another, related case.² The Nevada Supreme Court ruled that his plea in that other case violated state law, and, on remand, petitioner was allowed to withdraw his plea. Part of the now vacated plea agreement included a voluntary dismissal of the direct appeal in this case. The Nevada Supreme Court thus reinstated the direct appeal in this case. Ultimately, the Nevada Supreme Court affirmed the judgment of conviction.³ After that, this court reopened the action and directed petitioner to file an amended petition.⁴

Petitioner now has filed the current motion to stay. Late last year, after the conclusion of the reinstated direct appeal, petitioner filed a new post-conviction habeas corpus petition in the state district court. Petitioner thus asks, and the respondents do not oppose, the court to stay this

¹ ECF No. 33.

² ECF No. 21.

³ ECF No. 32-5.

⁴ ECF No. 26.

1 action while the state post-conviction proceedings are pending. The court finds good cause to
2 stay this action.

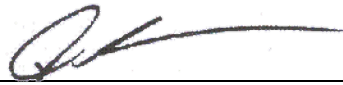
3 Petitioner also has filed a protective amended petition,⁵ in case the state courts determine
4 that the new state post-conviction habeas corpus petition is untimely.⁶

5 IT IS THEREFORE ORDERED that petitioner's unopposed motion for stay and
6 abeyance (ECF No. 33) is **GRANTED**. This action is **STAYED** while post-conviction
7 proceedings are pending in the state courts. Petitioner shall return to this court with a motion to
8 reopen within 45 days of issuance of the remittitur by the Nevada Supreme Court at the
9 conclusion of the state court proceedings. Further, petitioner or respondents otherwise may
10 move to reopen the action and seek any relief appropriate under the circumstances.

11 IT FURTHER IS ORDERED that, pursuant to Rule 25(d) of the Federal Rules of Civil
12 Procedure, the clerk of the court substitute Calvin Johnson as respondent in place of the State of
13 Nevada.

14 IT FURTHER IS ORDERED that the clerk of court shall administratively close this
15 action until such time as the court grants a motion to reopen the action.

16 DATED: February 2, 2021

17
18 
19 _____
20 ANDREW P. GORDON
21 UNITED STATES DISTRICT JUDGE
22

23 ⁵ ECF No. 31.

⁶ See *Pace v. DiGuglielmo*, 544 U.S. 408, 416 (2005).